

Response to query/ Rational raised against Tender Notice on “Appointment of Consultant for assisting MeECL and its Subsidiaries in providing Regulatory and Commercial services”

Sl.b2 to sl.g21	Bidder Name	Clause Ref	Clause Details	Query/Rationale	Response to bidder
1	Idam Infrastructure Advisory Pvt. Ltd.		That it has a minimum average annual turnover of INR Twenty Crores (Rs. 20 Crores) in consultancy business in the power sector during the last three (3) financial years preceding FY2022-23, i.e., FY 2019-20, FY 2020-21, and FY 2021-22 (The bidder shall provide the photocopies of the relevant auditor certified documents as proof of this).	We request to reduce the minimum average annual turnover value to at least INR 10 crores.	No change to the RfP document.
2	Idam Infrastructure Advisory Pvt. Ltd.		Manpower strength of at least 50 full-time professional staff with expertise in power, regulatory affairs, commercial and financial matters.	We request to reduce the manpower strength at least to 30 full-time professional staff.	No change to the RfP document.
3	Mercados Energy Markets India Private Limited	1.0.a	Joint Venture and association are allowed. However, there should be maximum two parties in the association (i.e., in case of JV there should be two partners and in case of association one lead partner and one associate partner). The sole bidder or association is referred to as the bidder. The Bidder should have consulting experience in the power sector encompassing regulatory, technical and commercial aspects of generation, transmission and distribution companies.	A joint venture or association is mostly for assignments for scope that covers multiple aspects which are varied in nature. The nature of work in this assignment is specific to regulatory and commercial aspect, which are customarily offered by a single consulting firm. Additionally, the eligibility requires experience in power sector encompassing regulatory, technical and commercial aspects of generation, transmission and distribution companies. There are a number of experienced consulting firms in India holding similar work experience. Thus, we would request MeECL to not allow joint venture or association of any nature.	No change to the RfP document.

4	Mercados Energy Markets India Private Limited	1.0.f	<p>The bidder must have represented at least one state owned electricity company/utility before APTEL or Supreme Court on electricity related matters (The bidder shall provide the photocopies of the orders of relevant judicial forums reflecting name of any partner/member of the firm).</p>	<p>It is respectfully suggested that in case of evidence of work experience for APTEL or Supreme Court, a copy of work order specifying the same in its scope must be acceptable. Additionally, the work order is also always in the name of the bidder.</p> <p>While, in many cases, when the appeal is made by a lawyer on behalf of consultant, only the name of the counsel is reflected, while in such cases the name of the partner does not reflect in the orders of the judicial forums.</p> <p>Thus, we would request MeECL accept the work orders as evidence for such experience.</p>	<p>No change to the RfP document.</p>
5	Mercados Energy Markets India Private Limited	2.0.a	<p>Studies recommended by commission (MSERC) from time to time including but not limited to</p> <p>(i) Cost of Service studies which would serve as a tool for alignment of costs and charges and submit details regarding the cost-of-service studies for each category or voltage level</p> <p>(ii) Fresh Actuarial Valuation Study Report in respect to employee expenses</p> <p>(iii) Any other studies required by the appropriate authority from time to time.</p>	<p>It is respectfully submitted that the following studies must not form a part of the scope as such studies require specific expertise which is not aligned with the main scope of the tender. Special experts, specialising in actuarial and accountancy are required for the preparation of such reports.</p> <p>If Actuarial Valuation Study, cost-of-service studies are required to be done for MSERC, it should be done through a separate tender/contract specifying the duration, frequency and other detailed aspects for such study. An indefinite mention of the studies has the potential to inflate the overall cost of the project.</p>	<p>Cost of service study, actuarial valuation and other studies required by MSERC are essential to the assignment. Bidder is expected to assist MeECL in these studies. MeECL will provide the consultant with all available data as prescribed in the relevant formats. For actuarial valuation the consultant will assist MeECL from technical aspect (analysis of data for assessment of terminal liabilities) and MeECL will appoint an actuarial agency that will prepare and sign the actuarial report.</p> <p>The clause is modified as: "Studies recommended by commission (MSERC) from time to time including but not limited to (i) Cost of Service studies which would serve as a tool for alignment of costs and charges and submit details regarding the cost-of-service studies for each category or voltage level (ii) Fresh Actuarial Valuation Study in respect to employee expenses (iii) Any other similar studies required by the appropriate authority from time to time."</p>

6	Mercados Energy Markets India Private Limited	5.0.c	The bids will be evaluated on the Quality cum Cost based selection (QCBS) basis with 70% weightage for the technical score and 30% for the financial score. Technical bid shall be evaluated first. The financial bids of bidders who have secured minimum qualifying technical score after technical evaluation shall only be opened. The minimum qualifying technical score is 50 marks out of 100 marks.	As per “Manual for Procurement of Consultancy and Other Services 2017” issued by Department of Expenditure, Ministry of Finance, Government of India -High complex/downstream consequences/ specialised assignments use QCBS with higher technical weightage of 80:20. Since the tender is specific in nature, it must have higher weightage on technical.	No change to the RfP document.
7	Mercados Energy Markets India Private Limited	5.0.d	The Total Score will be calculated as below: Total Score: $0.7 \times \text{Technical Score (TS)} + (0.3 \times 100) / (\text{Bidder Price} / \text{Lowest Bid Price})$	As per “Manual for Procurement of Consultancy and Other Services 2017” issued by Department of Expenditure, Ministry of Finance, Government of India -High complex/downstream consequences/ specialised assignments use QCBS with higher technical weightage of 80:20. Since the tender is specific in nature, it must have higher weightage on technical.	No change to the RfP document.
8	Mercados Energy Markets India Private Limited	5.0.e.2	Consulting firm should have experience in executing large consultancy assignments involving support to state owned distribution companies in improving commercial and operational performance in last ten years (immediately preceding March 2023). - 2 marks for each assignment, each having value more than Rs. 5 crores [Work Order of the assignment need to be provided] Max Marks-10	We would request to widen the area of experience to include Consulting firm with experience in executing large consultancy assignments involving support to state owned generation and transmission companies along with distribution companies as the scope of the given work covers all the three segments of power sector. Additionally, experience of the following utilities in improving commercial and operational power portfolio management and revenue or cost optimisation in last ten years should also be considered along with the performance. Since the nature of experience is growing, we suggest to also increase the value of assignments to enable wider participation.	The clause is modified as: "Consulting firm should have experience in executing large consultancy assignments involving support to state owned generation/ transmission/ distribution companies in improving commercial and operational performance/ power portfolio management/revenue or cost optimisation in last ten years. - 2 marks for each assignment having value more than Rs. 5 crores. [Work Order of the assignment need to be provided]"

9	Deloitte Touche Tohmatsu India LLP	1.0.f	The bidder must have represented at least one state owned electricity company/utility before APTEL or Supreme Court on electricity related matters (The bidder shall provide the photocopies of the orders of relevant judicial forums reflecting name of any partner/member of the firm).	We request for removal of the specific clause as the experience of filing review petitions to SERCs is similar to the experience required for filings / representation for APTEL or Supreme Court for Consultancy services.	The clause is modified as "The bidder must have represented at least one state owned electricity company/utility before APTEL or Supreme Court on electricity related matters (The bidder shall provide the work order as evidence for such experience)."
10	Deloitte Touche Tohmatsu India LLP	5.0 (e) 4	Presentation	We request for the provision of conducting the presentation through virtual mode. While we will strive to conduct the presentation in physical mode, due to the emerging covid-19 situation again, we request for the virtual presentation modality.	The mode of presentation presently envisaged is physical mode only. However, MeECL will decide the virtual mode of presentation taking into account the evolving Covid-19 situation and the relevant guidelines at the time when presentation is proposed to be scheduled.
11	Deloitte Touche Tohmatsu India LLP	NA	Extension for Submission Timelines	We request to extend the submission timelines by 14 working days to enable us to complete the relevant tie-ups and prepare a responsive proposal for this assignment.	The bid submission date is extended till 18.05.2023 at same hours.

12	Deloitte Touche Tohmatsu India LLP	NA	Limitation of Liability	<p>We request the inclusion of the following clause for limitation of liability: “Notwithstanding anything contained in the contract, Client agrees that the Vendor/ Bidder / Consultant shall not be liable to Client, for any losses, claims, damages, liabilities, cost or expenses (“Losses”) of any nature whatsoever, for an aggregate amount in excess of the fee paid under the contract for the services provided under the contract, except where such Losses are finally judicially determined to have arisen primarily from fraud or bad faith of the Vendor/ Bidder / Consultant. In no event shall the Vendor/ Bidder / Consultant, be liable for any consequential (including loss of profit and loss of data), special, indirect, incidental, punitive, or exemplary loss, damage, or expense relating to the services provided pursuant to this Contract.”</p>	No change to the RfP document.
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13	PricewaterhouseCoopers Private Limited	2 (a)	<p>Studies recommended by commission (MSERC) from time to time including but not limited to</p> <ul style="list-style-type: none"> (i) Cost of Service studies which would serve as a tool for alignment of costs and charges and submit details regarding the cost-of-service studies for each category or voltage level (ii) Fresh Actuarial Valuation Study Report in respect to employee expenses (iii) Any other studies required by the appropriate authority from time to time. 	<p>We understand that the actuarial valuation studies (Point ii) are required to be done by empaneled agencies who are supposed to submit the certified valuation report for which we would be required to form consortium which is limited by clause 1 (a) for RfP. We would request you to remove this part of study from the scope.</p> <p>With regard to cost of service studies and any other studies (Point (i) and (iii)), we understand that we would be required to assist you in completing the studies by providing suggestions on the methodology of the study, provide sample calculations/illustrative examples as required and support in conducting any detailed study which might be required by MSERC as the completion of a detailed study might require additional expertise and man power than the manpower requirement of RfP. Please confirm if the understanding is correct.</p>	<p>Cost of service study, actuarial valuation and other studies required by MSERC are essential to the assignment. Bidder is expected to assist MeECL in these studies. MeECL will provide the consultant with all available data as prescribed in the relevant formats. For actuarial valuation the consultant will assist MeECL from technical aspect (analysis of data for assessment of terminal liabilities) and MeECL will appoint an actuarial agency that will prepare and sign the actuarial report.</p> <p>The clause is modified as: "Studies recommended by commission (MSERC) from time to time including but not limited to (i) Cost of Service studies which would serve as a tool for alignment of costs and charges and submit details regarding the cost-of-service studies for each category or voltage level (ii) Fresh Actuarial Valuation Study in respect to employee expenses (iii) Any other studies required by the appropriate authority from time to time."</p>
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14	PricewaterhouseCoopers Private Limited	2 c and 5 e	Scope of Work (C) Legal Support And Technical Evaluation Criteria (Sr. no. 8) Legal Expert	We would like to submit that in most of the power utilities, the scope of legal support in regulatory matters is done by a separate legal agency which is hired directly by the power utility, based on the specific requirement of the case/ matter. This leads to more flexibility and accountability in terms of appointing different experts or replacement of firms based on performance. As such, we would request you to kindly remove the scope of legal support and expert from this assignment to make it more focused and also easier for evaluation purpose.	No change to the RfP document.
15	PricewaterhouseCoopers Private Limited	5 e	Presentation	We understand that the presentation on understanding, work plan, approach and methodology shall be required after submission of our technical and financial proposal and the same shall not be required to be submitted along with the proposal (as part of a separate section in the proposal). Please confirm the understanding.	Bidder is required to submit the presentation as a part and alongwith the technical proposal by the bid submission due date. The presentation submitted alongwith the technical proposal will be used by the consultant on the date of presentation that will be duly informed by the MeECL to the bidder.
16	PricewaterhouseCoopers Private Limited	6	Terms of Payment	We understand that the payment will be made on monthly basis (not quarterly) and a quarterly review shall be done to assess the work done vis- vis the planned actions at the start of the quarter. Please confirm the understanding	Please refer to the terms of the RfP document in 6b and 6c.

17	PricewaterhouseCoopers Private Limited	11	Due Date: The bidders shall submit the bid proposals latest by 1400 hours, 12.05.2023	We request you to kindly extend the bid submission timeline by at least 2 weeks to enable us to take requisite approvals, form consortium with the legal bidder (if required) and comply with the other requirements sought in the RfP.	The bid submission date is extended till 18.05.2023 at same hours.
18	PricewaterhouseCoopers Private Limited	18	Time Period: The assignment will initially be awarded for one year and may be extended for a further period one year at mutually acceptable terms and conditions. The OPE limit shall remain unchanged	(1) Based on the nature of the assignment and similar RfPs, we suggest that the time period of the assignment may be extended to at least 2 years subject to extension for another 2 years. (2) It is mentioned that the OPE limit shall remain unchanged but the OPE break up has not been sought in the proposal. Please clarify (3) We suggest that the prices for the first 2 years be kept as FIRM and subsequently an escalation rate of 10% may be provided, based on satisfactory performance of the consultant.	Clause 18 is revised as below: "The assignment will be initially awarded for one year and may be extended for a further period of one year at mutually acceptable terms and conditions."
19	NA	5.0.e.8	Legal Expert 2. Must be permanent employee with the current company on the date of bid	The Bar Council Rules enacted under section 49(1)(c) of the Advocates Act prohibit alternative full time employments for practicing advocates.	The requirement of Legal Expert to be permanent employee with the current company on the date of bid stands deleted.